

but not the amount of the earned income;

(ii) With respect to a spouse, the source and the actual amount or value of any honoraria received by or accrued to the spouse (or payments made or to be made to charity on the spouse's behalf in lieu of honoraria) which exceed \$200 from any one source, and the date on which the services were provided; and

(iii) With respect to a spouse or dependent child, the type and source, and the amount or value (category or actual amount, in accordance with § 2634.302 of this subpart), of all other income exceeding \$200 from any one source, such as investment income from interests in property (if the property itself is reportable according to § 2634.301 of this subpart).

Example 1. The spouse of a filer is employed as a teller at Bank X and earns \$23,000 per year. The report must disclose that the spouse is employed by Bank X. The amount of the spouse's earnings need not be disclosed.

Example 2. The spouse of a reporting individual is self-employed as a pediatrician. The report must disclose that he is a physician, but need not disclose the amount of income.

(2) *Gifts and reimbursements.* For purposes of § 2634.304 of this subpart, gifts and reimbursements received by a spouse or dependent child which are not received totally independent of their relationship to the filer.

(3) *Interests in property, transactions, and liabilities.* For purposes of §§ 2634.301, 2634.303, and 2634.305 of this subpart, all information concerning property interests, transactions, or liabilities referred to by those sections of a spouse or dependent child, unless the following three conditions are satisfied:

(i) The filer certifies that the item represents the spouse's or dependent child's sole financial interest or responsibility, and that the filer has no specific knowledge regarding that item;

(ii) The item is not in any way, past or present, derived from the income, assets or activities of the filer; and

(iii) The filer neither derives, nor expects to derive, any financial or economic benefit from the item.

NOTE: One who prepares a joint tax return with his spouse will normally derive a financial or economic benefit from assets held by the spouse, and will also be charged with knowledge of such items; therefore he could not avail himself of this exception. Likewise, a trust for the education of one's minor child normally will convey a financial benefit to the parent. If so, the assets of the trust would be reportable on a financial disclosure statement.

(b) *Exception.* For reports filed as a new entrant, nominee, or candidate under § 2634.201(b), (c), or (d), no information regarding gifts and reimbursements or transactions is required for a spouse or dependent child.

(c) *Divorce and separation.* A reporting individual need not report any information about:

(1) A spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation;

(2) A former spouse or a spouse from whom the reporting individual is permanently separated; or

(3) Any income or obligations of the reporting individual arising from dissolution of the reporting individual's marriage or permanent separation from a spouse.

[57 FR 11808, Apr. 7, 1992, as amended at 71 FR 28234, May 16, 2006]

§ 2634.310 Trusts, estates, and investment funds.

(a) *In general.* (1) Except as otherwise provided in this section, each financial disclosure report shall include the information required by this subpart about the holdings of and income from the holdings of any trust, estate, investment fund or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, the filer, his spouse, or dependent child.

(2) No information, however, is required about a nonvested beneficial interest in the principal or income of an estate or trust. A vested interest is a present right or title to property, which carries with it an existing right of alienation, even though the right to possession or enjoyment may be postponed to some uncertain time in the future. This includes a future interest

§ 2634.310

when one has a right, defeasible or indefeasible, to the immediate possession or enjoyment of the property, upon the ceasing of another's interest. Accordingly, it is not the uncertainty of the time of enjoyment in the future, but the uncertainty of the right of enjoyment (title and alienation), which differentiates a "vested" and a "nonvested" interest.

NOTE TO PARAGRAPH (a): Nothing in this section requires the reporting of the holdings or income of a revocable inter vivos trust (also known as a "living trust") with respect to which the filer, his spouse or dependent child has only a remainder interest, whether or not vested, provided that the grantor of the trust is neither the filer, the filer's spouse, nor the filer's dependent child. Furthermore, nothing in this section requires the reporting of the holdings or income of a revocable inter vivos trust from which the filer, his spouse or dependent child receives any discretionary distribution, provided that the grantor of the trust is neither the filer, the filer's spouse, nor the filer's dependent child.

(b) *Qualified trusts and excepted trusts.*

(1) A filer should not report information about the holdings of or income from holdings of, any qualified blind trust (as defined in § 2634.403) or any qualified diversified trust (as defined in § 2634.404). For a qualified blind trust, a public financial disclosure report shall disclose the category of the aggregate amount of the trust's income attributable to the beneficial interest of the filer, his spouse, or dependent child in the trust. For a qualified diversified trust, a public financial disclosure report shall disclose the category of the aggregate amount of income with respect to such a trust which is actually received by the filer, his spouse, or dependent child, or applied for the benefit of any of them.

(2) In the case of an excepted trust, a filer should indicate the general nature of its holdings, to the extent known, but will not otherwise need to report information about the trust's holdings or income from holdings. The category of the aggregate amount of income from an excepted trust which is received by or accrued to the benefit of the filer, his spouse, or dependent child shall be reported on public financial disclosure reports. For purposes of this

5 CFR Ch. XVI (1–1–11 Edition)

part, the term "excepted trust" means a trust:

(i) Which was not created directly by the filer, spouse, or dependent child; and

(ii) The holdings or sources of income of which the filer, spouse, or dependent child have no specific knowledge through a report, disclosure, or constructive receipt, whether intended or inadvertent.

(c) *Excepted investment funds.* (1) No information is required under paragraph (a) of this section about the underlying holdings of or income from underlying holdings of an *excepted investment fund* as defined in paragraph (c)(2) of this section, except that the fund itself shall be identified as an interest in property and/or a source of income. Filers must also disclose the category of value of the fund interest held; aggregate amount of income from the fund which is received by or accrued to the benefit of the filer, his spouse, or dependent child; and value of any transactions involving shares or units of the fund.

(2) For purposes of financial disclosure reports filed under the provisions of this part, an "excepted investment fund" means a widely held investment fund (whether a mutual fund, regulated investment company, common trust fund maintained by a bank or similar financial institution, pension or deferred compensation plan, or any other investment fund), if:

(i)(A) The fund is publicly traded or available; or

(B) The assets of the fund are widely diversified; and

(ii) The filer neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

(3) A fund is widely diversified if it holds no more than 5% of the value of its portfolio in the securities of any one issuer (other than the United States Government) and no more than 20% in any particular economic or geographic sector.

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